IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.1708 OF 2007

Jai Hanuman Sahakari Gruha
Nirman Sanstha Ltd. (proposed) and others ..Petitioners.
Vs.
State of Maharashtra and others ..Respondents.

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Mr. Tejas Vora with Ms. Savita Sawalkar and Ms. Swati i/b M/s. Tamhane and Co. for the Petitioners.
Mr. J. G. Reddy for Respondent No.3.

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CORAM: **SMT. RANJANA DESAI, AND**
DR. D.Y. CHANDRACHUD, JJ.

30th August, 2007.

P.C. :

1. Petitioner No.1 is a co-operative housing society, Petitioners 2 and 3 are it's office bearers. The present Petition is filed by the Petitioners challenging the order of the Second Respondent refusing to certify and /or issue Annexure II in respect of the property which is proposed to be developed under the provisions of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971. The basic grievance of the Petitioners appears to be that in L. C. Suit 8045 of 1995

pending in the City Civil Court at Bombay, an injunction order is passed restraining the Second Respondent from obstructing the possession of the Plaintiff therein and from entering on the suit land. Counsel appearing for the Petitioners contended that the Second Respondent is using this injunction order and refusing to certify Annexure II.

2. It appears that in the said suit, the developer has taken out a Chamber Summons for adding himself as a party. In the circumstances of the case, we are of the opinion that since the suit is pending in the City Civil Court, the present Petition cannot be entertained. It will, however, be open to the Petitioners to make an appropriate application in the said suit for adding themselves as a party Defendant and/or for vacating the injunction order. Needless to say that if such an application is made, the City Civil Court shall pass appropriate orders thereon in accordance with law. We have no doubt that the City Civil Court will dispose of any application made by the Petitioners, as expeditiously as possible. In case, the Petitioners are aggrieved by the orders

passed by the City Civil Court, it will be open to the Petitioners if they are so advised, to adopt such other remedies as may be available to them in law.

We make it clear that we have not expressed any opinion on the merits of the case.

The Petition is disposed of.

SMT. RANJANA DESAI, J.

DR. D.Y. CHANDRACHUD, J.